IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

MONDAY, THE 3RD DECEMBER 2007 / 12TH AGRAHAYANA 1929

Crl.Rev.Pet.No. 4295 of 2007()

CRA.153/2006 of ADDL. SESSIONS (ADHOC) FAST TRACK COURT II, MANJERI.
MC.14/2006 of JUDL.MAGISTRATE OF FIRST CLASS COURT, TIRUR

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REVISION PETITIONERS/APPELLANTS/COUNTER PETITIONERS

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1. ABDUL SALAM, S/O. MOIDU,
   AGED 33 YEARS, ALUNGAL HOUSE, RAYIRAMANGALAM AMSOM
   TIRUR TALUK.

2. MOIDU, S/O. SAIDALAVI,
   AGED 45 YEARS, PARAPPIL HOUSE, RAYIRAMANGALAM AMSOM
   TIRUR TALUK.

BY ADV. SRI.SUNNY MATHEW

RESPONDENTS:

STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY ADV. SRI. RAVEENDRA BABU, PUBLIC PROSECUTOR

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 03/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. RAMKUMAR , J

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CRL.R.P. NO. 4295 OF 2007

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Dated this the 3rd day of December, 2007.

ORDER

The revision petitioners were the sureties of one Ismail, accused in C.P. No. 17/2002 on the file of Judicial First Class Magistrate, Tirur which is a case involving an offence punishable under Section 307 IPC. The bond amount was Rs.10,000/-. Consequent on the non-appearance of the said Ismail before the trial court, proceedings were initiated against the revision petitioners under Section 446 Cr.P.C. To the show cause notice issued to them in Form No. 47 of schedule 2 of Cr.P.C except stating that the accused has gone abroad, the revision petitioner had no other explanation to be offered. The trial court accordingly imposed the bond amount as penalty on each of the revision petitioners and directed that if the amount turned out to be irrecoverable, the revision petitioner shall undergo imprisonment for five months in a civil prison. On an appeal preferred by the revision petitioner as Crl. Appeal No.153/2006 before the Sessions Court, Manjeri, the lower appellate court reduced the penalty to Rs.7,500/-. Hence this revision.

2. The explanation that the accused has slipped out of the country and the sureties had no role to play in the accused going abroad cannot ordinarily contribute sufficient cause so as to justify reduction in the penalty amount. But, in view of the decision reported in **Muhammed Kunju and another v. State of Karnataka** (1999 (4) Crimes 320) where the Apex Court had granted remission in similar circumstances, I am inclined to reduce the penalty by 50% of the bond amount. Accordingly, the penalty payable by each of the revision petitioners is reduced to Rs.5000/-. The said amount of penalty shall be paid within one month from today failing which the consequences mentioned in the trial court order shall follow.

V. RAMKUMAR, JUDGE.

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